

Remarks

In reply to applicants' reply filed on September 29, 2008, the Examiner issued an Advisory action indicating that the above amendments would not be entered because they change the language and scope of the claims and necessitate further consideration and an updated search.

In applicants reply filed on September 29, 2008, a request was made to withdraw the finality of the last Office Action. The Advisory Action provided no explanation as to why the request was deficient and should not have been granted.

As previously explained, the RCE filed on April 1, 2008 included a request for a three month suspension pursuant to 37 CFR 1.103(c). § 1.103 in pertinent part reads as follows:

Suspension of action by the Office.

(c) Limited suspension of action after a request for continued application (RCE) under § 1.114. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph after the filing of a request for continued examination in compliance with § 1.114 for a period not exceeding three months. Any request for suspension of action under this paragraph must be filed with the request for continued examination under § 1.114, specify the period of suspension, and include the processing fee set forth in § 1.17(i).

The request for suspension was timely filed, and accordingly, applicant had until July 1, 2008 to file a reply to the final Office Action dated October 1, 2007. The latest Office Action was issued on June 27, 2008, which is prior to the end of the suspension period. Moreover, the Office Action was made final.

Consequently, the premature issuance of the final Office Action prior to the end of the three month suspension denied applicants from the right to obtain entry of the foregoing amendments.

In view of the premature issuance of the latest Office Action, the finality of said Office Action should be withdrawn and the above amendments entered as a matter of right. Moreover, the next Office Action should not be made final (should there be a next Office Action) since applicants are entitled to consideration of the herein amended

claims and the opportunity to introduce new amendments should this be necessary in view of any new rejections that may be advanced by the Examiner.

In view of the foregoing, request is made for withdrawal of the finality of the last Office Action, entry of the amendments, and consideration of the amended claims.

Respectfully submitted,

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